

Judge Robb, cont.

Foundation and a Senior Distinguished Fellow of the Indianapolis Bar Foundation. She is a frequent speaker on legal topics for attorneys, other judges, and professional, civic and community organizations.

Judge Robb was Founding Chair of Governor Bowen's Commission on the Status of Women; was a recipient of a 1993 Indiana State Bar Association's "Celebrating 100 Years of Women in the Legal Profession" award; the 2001 Maynard K. Hine distinguished alumni award given in recognition of support and service to IUPUI and Indiana University; the 2004 Bernadette Perham "Indiana Women of Achievement" Award, bestowed by Ball State University to honor of one of their outstanding professors; the 2005 Indiana State Bar Association's Women in the Law Recognition Award; the 2006 Tippecanoe County YWCA Salute to Women "Women of Distinction" Award; the 2007 Warren G. Harding High School, Warren, Ohio, Distinguished Alumni Award; the 2010 Indiana University Alumni Association President's Award, a 2010 Indiana Lawyer Distinguished Barrister Award, the

2011 Indianapolis Bar Association Women and the Law Committee's Antoinette Dakin Leach Award and the 2011 David Hamacher Award from the Appellate Practice Section of the Indiana State Bar Association.

Judge Robb chairs the Supreme Court Task Force on Family Courts and is involved in several projects to benefit the Indiana legal system. She also chaired the Supreme Court task force for the development of Trial Court Local Rules, has also served as a member of the Indiana Board of Law Examiners, the Governance Committee of the Supreme Court IOLTA (Interest on Lawyer Trust Account) Committee; the Federal Advisory Committee on Local Rules for the Federal Court for the Northern District of Indiana; and the Federal Advisory Committee for the Expediting of Federal Litigation.

Judge Robb authored "Reflections of Baseball, Life and the Law" in the Indiana State Bar Association's journal, *Res Gestae* and "Running Bases, Winning Cases: Why the Grand Old Game of Baseball is like the legal profession" in the ABA's journal. She also authored a chapter on Supreme Court Justice Leonard Hackney in, *Indiana Supreme Court Justices*,

and co-authored a chapter, "From Juvenile Courts to Family Courts," in *Essays on Indiana Legal History*.

In addition, she serves on the ABA Committee that accredits law schools and Chaired the 2010 ABA's Appellate Judges Council - Appellate Judges Education Institute's national Summit for Judges, lawyers and Staff attorneys. Chief Judge Robb is an elected member of the American Law Institute (ALI).

Judge Robb was retained on the Court of Appeals in 2000 and 2010, is married to a professor at Purdue University. Their son, a graduate of the United States Naval Academy, is a Lieutenant on active duty in the United States Navy.

Judge Friedlander, cont.

ber of the local organizing committee for the 1991 PGA Championships, the 2005 Solheim Cup, the 2002 World Basketball Championships; and is a founder of the Carmel Youth Soccer Association.

Judge Friedlander, who was retained on the Court of Appeals by non-partisan retention election in 1996 and 2006, is married and has two children and three grandchildren.

Social Media and the Courts: Brave New World or Ethical Morass?

Sometimes we're so steeped in things we don't really notice them. Take social media; we spend so much time texting, tweeting, Facebooking, etc., that it's like water to a fish – just part of our world.

But Courts don't swim so easily in that environment. After all, social media is frothy, effervescent and bubbling with **now**. Courts are sober, slow and cautious.

Nor are Courts well suited to another defining characteristic of new media: the "anything goes" quality of so much Facebook, Twitter and YouTube content.

Yet Courts aren't blind to technology, as proved by even a quick glance at the Indiana judiciary's website, www.in.gov/judiciary. As further evidence, one-third of ranking Court officials who responded to a national survey on new media said they have used social media in either their professional or personal lives.

Still, the question arises: Can Courts tap the power and dynamism

of new media while still honoring the integrity and responsibilities that rightly fall to America's third great branch of government?

@incourts offers one approach to that question. Launched at the direction of former Indiana Supreme Court Chief Justice Randall Shepard, @incourts has 1,810 followers and, to date, has tweeted 637 times.

Followers include @PBhere/Courts-that-twitter, which offers a handy portal to tweets from state-level Courts around the country, including Appellate Courts.

Even the U.S. Supreme Court has a Twitter account, @USSupremeCourt.

True, a typical Court tweet isn't exactly "Jersey Shore" material. But tweets and retweets about anticipated opinions or new Court procedures can be of significant service to a host of professional, media and lay people who closely follow the law and legal developments.

Having said all that, the Courts and social media aren't exactly locked in

tight embrace. According to the above-mentioned survey (conducted by the Conference of Court Public Information Officers), less than 7 percent of Courts have social media profile sites such as Facebook, and only 7 percent use Twitter or similar microblogging tools.

Ethical concerns may explain those low adoption rates. Almost half the judges who responded to the survey disagreed with the idea that they could use social media in their professional lives without compromising professional codes of conduct.

As Judge Edward W. Najam Jr., of the Court of Appeals of Indiana has said, "A court speaks through its opinions" and not through public commentary in new or old media.

As always, the future requires a "stay tuned" caveat. But who would be surprised if young people and their still-evolving dance with social media end up shaping the Courts' approach to new media in unexpected ways?

COURT OF APPEALS OF INDIANA ORAL ARGUMENT AT A GLANCE

IVY TECH LAFAYETTE

Bond v. State

ORAL ARGUMENT:

Wednesday, May 1, 2013
10 a.m.

APPEAL FROM:

Lake Superior Court
The Honorable
Diane Ross Boswell, Judge

CRIMINAL LAW ISSUE:

Whether Appellant's confession during a police interrogation was involuntary and therefore inadmissible at trial.

Case Synopsis

In 2011, McLynnerd Bond Jr. was a suspect in a 2007 murder. During the evening of Feb. 12, 2011, he was arrested on an unrelated matter and, the next morning, Detective Edward Gonzalez of the Gary Police Department questioned Bond about his possible involvement in the murder.

The interrogation lasted close to three-and-one-half hours and was videotaped. Initially, Bond denied being involved in the murder. During the interrogation, however, Detective Gonzalez repeatedly promised Bond that he would bring his family in for a visit if he confessed. Detective Gonzalez also promised Bond that he would talk to the prosecutor and try to help him. Detective Gonzalez also told Bond not to "let twelve people

who are from Schererville, Crown Point, white people, Hispanic people, other people that aren't from Gary, from [his] part of the hood" judge him. About three hours into the interrogation, Bond admitted to shooting the murder victim.

Bond was charged with murder. Prior to trial, he brought a motion to suppress, arguing that his confession was involuntary and therefore inadmissible under the United States and Indiana constitutions.

The trial court conducted two hearings on the matter. The trial court heard testimony from both Detective Gonzalez and Bond. Bond testified that he had not slept the night before the interrogation due to being under the influence of Ecstasy, nor had he eaten. Ultimately, the trial court de-

nied his motion to suppress the confession.

Bond now brings this interlocutory appeal, appealing the trial court's denial of his motion.

Bond argues that his confession was involuntary and is therefore inadmissible during his murder trial.

He relies, in part, on the promises made by Detective Gonzalez to help him if he confessed. Under Indiana law, vague or indefinite promises made during an interrogation do not render a subsequent confession involuntary, while specific promises do.

Bond argues that some of the promises were specific enough to make his confession involuntary. For example, Detective Gonzalez told

- continued on p. 2

Case synopsis, cont.

him that even though he was being charged with murder, if Bond took “ownership of what happened, we can change that 100%.” He also told him the State “will do something for [him]” if he cooperated.

The State counters this argument by stating that these promises were vague. The State also points to the fact that during the interrogation, Detective Gonzalez repeatedly told Bond that he could not guarantee any particular decision or result.

Bond also argues that Detective Gonzalez’s comment regarding the location of the courthouse and the unlikelihood of having anyone from his “part of the hood” on the jury was deceitful and another reason his confession was involuntary.

He argues that this comment had racial overtones because Detective Gonzalez mentioned that whites and Hispanics and “other people that aren’t from Gary” would be the ones judging him, and Bond is African-American.

The State counters that Detective Gonzalez’s comment was merely an invitation for Bond to consider taking the risk of facing a murder charge with a jury that did not understand his life circumstances.

What happens after oral argument?

After oral argument, the judges confer to decide the outcome. One, called the writing judge, drafts an opinion for the others’ review. Final language may involve several drafts and significant collaboration among the judges.

Generally, opinions will affirm or reverse lower court rulings in whole. But some affirm in part, some reverse in part, and some do both. Not infrequently, the opinion instructs the trial court about the next appropriate course of action.

Many opinions are unanimous, although 2-1 decisions are not uncommon. Dissenting judges usually express their views in a separate opinion that becomes part of the permanent record of the case.

Sometimes, judges write separate, concurring opinions that emphasize different points of law or facts than the main opinion.

No rules or laws govern how fast the Court of Appeals must issue an opinion. But the court strives to decide cases within four months of receiving all briefs, transcripts and other records.

Once issued, all opinions are published on the court’s website (courts.in.gov) and maintained in the permanent records of the Clerk of Appellate Courts.

Parties can appeal decisions of the Court of Appeals to the Indiana Supreme Court by filing a petition to transfer within a prescribed number of days. But transfer isn’t automatic; the Supreme Court can grant or deny transfer with or without giving a reason.

If the petition is denied, the Appeals Court decision stands.

Finally, Bond points to Detective Gonzalez’s promises of a family visit if he confessed, and the fact that he had not eaten or slept since being arrested the night before the confession. While acknowledging that these factors alone do not make his confession involuntary, he argues they were relevant to his physical and mental condition and contributed to the involuntariness of his confession.

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Glossary

A confession is **involuntary** if, in light of the totality of the circumstances, it was made as a result of tactics that overcame the defendant’s rational intellect and free will. If a piece of evidence is **inadmissible**, it cannot be presented to the jury during a jury trial and the jury cannot take it into consideration when deciding whether the defendant is guilty.

A **motion to suppress** is a motion brought on behalf of a party asking the trial court to rule that a certain piece of evidence is inadmissible at trial.

An **interlocutory appeal** is an appeal of a ruling made by the trial court that is brought before there is a final disposition of the case.

The Court in a nutshell

- The Indiana General Assembly created a temporary appellate court in 1891 and a permanent Appeals Court in 1901. In 1971, voters approved a constitutional amendment making the Court of Appeals of Indiana a constitutional court.
- The Court hears cases in three-judge panels that rotate three times per year. Cases are never assigned to a single judge, and all cases are randomly assigned.
- Including judges serving senior terms, 135 judges have served the Court since its inception. Their photos are displayed against the north wall of the Statehouse on the fourth floor. Judge James B. Black (1838-1916) was the Court’s first chief judge.
- Because the Indiana Constitution provides “an absolute right to one appeal,” the Court of Appeals considers about 2,300 cases each year. The Indiana Supreme Court need not consider every appeal, so it decides about 100 cases per year.
- Eight women and three African Americans have served on the Court. Current Chief Judge Margret G. Robb is the Court’s first female chief judge.
- Judge Rudolph R. Pyle III is believed to be the first judge in the court’s history to have clerked for an Appeals Court judge and later be appointed to the court.
- The court decides most cases without holding oral argument. In 2012, for example, the court issued 2,143 majority opinions and heard 78 oral arguments.
- The court hears and decides about twice as many criminal cases as civil cases each year.
- The Court of Appeals affirmed trial court decisions in 80 percent of its cases in 2012. By case type, the affirmation rate was 86 percent of criminal cases; 88 percent of post-conviction relief petitions; and 64 percent of civil cases.

Today’s Panel of Judges

<p><i>The Honorable Ezra H. Friedlander (Hamilton County)</i></p> <p>Ezra H. Friedlander was appointed to the Court of Appeals by Governor Evan Bayh in January 1993. A native of New Jersey, Judge Friedlander graduated from Indiana University in 1962 with a BA in History and Government. He earned his law degree from Indiana University School of Law in 1965.</p> <p>Judge Friedlander practiced law for 27 years before being appointed to the bench. His practice was primarily in the area of civil law, but he also served as a deputy prosecutor in Lake and Marion counties and as corporate counsel to the Secretary of State.</p> <p>Judge Friedlander is former co-chairman of the Indiana Supreme Court’s Commission on Race and Gender Fairness. He is a member of the Indiana State and American Bar associations; American Judicature Society; and the Indiana Judges Association. He is a graduate of New York University’s Appellate Judges Institute of Judicial Administration.</p> <p>Judge Friedlander is a past member of the Board of Directors of the Indiana State Bar Association and past chair of its Young Lawyers Section. He is also a Fellow of the Indiana State Bar Foundation. He has previously been active in the American Bar Association’s Judicial Division (Standing Committee on Minorities in the Judiciary) as well as many other areas of the bar, including the Indianapolis Bar Association and the Indianapolis Bar Foundation.</p> <p>Judge Friedlander stays actively involved at his alma mater by serving on the Dean’s Advisory Board of the College of Arts and Sciences. He also serves on the Board of Directors of the Indiana University Foundation. Judge Friedlander was honored by the IU School of Law as a member of its Academy of Law Alumni Fellows.</p> <p>Judge Friedlander also remains actively involved in Hamilton County community efforts. He was a mem-</p> <p>- continued on p. 4</p>	<p><i>The Honorable Margret G. Robb (Tippecanoe County)</i></p> <p>Margret G. Robb was appointed to the Court of Appeals of Indiana in July 1998 by Governor Frank O’Bannon. She holds a B.S. and an M.S. in Business Economics from Purdue University, a Magna Cum Laude J.D. from Indiana University Robert H. McKinney School of Law and is a graduate of the Graduate Program for Indiana Judges. In 2011 she began a three year term as Chief Judge; the first woman to hold that position in the Court’s more than 100 year history.</p> <p>Prior to her appointment to the Court, Judge Robb was, for 20 years, engaged in the general practice of law in Lafayette, and served as a Chapter 11, 12 and a standing Chapter 7 Bankruptcy trustee for the Northern District of Indiana. She was a registered family and civil mediator and served as a Tippecanoe County Deputy Public Defender.</p> <p>She has been an officer of the Indiana State Bar Association, the Fellows of the Indiana State Bar Foundation, Tippecanoe County Bar Association, National Association of Women Judges, the Indiana University School of Law- Indianapolis Alumni Association and the Bankruptcy Section of the Indiana State Bar Association.</p> <p>She has also been a Board member of the Appellate Judges Council of the American Bar Association, the Indianapolis Bar Association, the Indianapolis Bar Foundation, the Indianapolis Bar Foundation, the Senior Council Section of the Indianapolis Bar Association, the Appellate Practice Section of the Indiana State Bar Association and the Appellate Judges Education Institute.</p> <p>She was the moderator for the 2005-2006 and Chair for the 2006-2007 Indianapolis Bar Association’s Bar Leader Series, and is a member of the American Bar Foundation, American Judicature Society, a Master Fellow of the Indiana State Bar</p> <p>- continued on p. 4</p>	<p><i>The Honorable James S. Kirsch (Marion County)</i></p> <p>James S. Kirsch was appointed to the Court of Appeals in 1994, was retained by election in 1996 and 2006 and served as Chief Judge from 2004-2007. He also has served as a state trial court judge and has extensive national and international teaching experience.</p> <p>A native of Indianapolis, Judge Kirsch graduated from Indiana University School of Law-Indianapolis (J.D., cum laude) and Butler University (B.A. with honors).</p> <p>He served as Judge of the Marion Superior Court from 1988 to 1994 and as Presiding Judge of the Court in 1992. From 1974-1988, he practiced law with the firm of Kroger, Gardis & Regas in the areas of commercial and business litigation and served as managing partner of the firm.</p> <p>Since 1990, Judge Kirsch has held an appointment as Visiting Professor of Law and Management at the Krannert Graduate School of Management at Purdue University. He has taught law in 21 countries on four continents and currently holds university-level faculty appointments in Germany, Hungary and the Netherlands.</p> <p>Judge Kirsch is also committed to continuing legal education and has served on the faculty of more than 200 CLE programs. In 1990, the Indianapolis Bar Association presented him with its highest award, the Honorable Paul H. Buchanan Award of Excellence.</p> <p>Judge Kirsch also has deep ties to the Indiana State Bar Foundation, the Indianapolis Bar Association and Bar Foundation and to community organizations that include the United Way of Central Indiana, the Indianapolis Urban League, the Legal Aid Society of Indianapolis and the Stanley K. Lacey Leadership Foundation.</p> <p>Judge Kirsch and his wife, Jan, have two children.</p>
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